

MAJOR FEDERAL AVIATION ADMINISTRATION ADR PROGRAMS

Alternative Dispute Resolution (General)

FAA Alternative Dispute Resolution Office (AGC-20)

The Associate Chief Counsel for ADR is the FAA's appointed Dispute Resolution Specialist. He is responsible for implementing the provisions of the Administrative Dispute Resolution Act, developing FAA ADR policy, and increasing the understanding and use of ADR techniques within the FAA. He is a Deputy Dispute Resolution Specialist (DDRS) in the DOT ADR system, and works in partnership with the DOT Dispute Resolution Specialist and the DOT ADR Council.

While the DDRS does not administer a formal dispute resolution process, his office provides ADR policy direction, leadership, expertise, and support for all ADR programs in the FAA.

The DDRS also provides legal guidance related to ADR, coordinates ADR initiatives, is available to assist offices in designing conflict management systems, and provides training on ADR and other collaborative problem-solving issues and methods to managers and employees, as well as to those involved in providing dispute resolution services.

The DDRS and his staff are available to advise and consult with employees and managers seeking assistance in avoiding or resolving workplace or other conflict. His office also provides, or arranges for the provision of, intervention services, as requested. These services include mediation, conflict coaching, facilitation, neutral evaluation, and other ADR processes.

Alternative Dispute Resolution (Equal Employment Opportunity)

FAA EEO Mediation Program (ACR)

The FAA's Office of Civil Rights has established a formal mediation program to resolve allegations of workplace discrimination and/or harassment raised through the Equal Employment Opportunity (EEO) pre-complaint process.

The objective of this program is to resolve allegations early and at the lowest possible level. Early resolution benefits the agency by creating a more hospitable workplace for all. Other benefits for the agency include reduction of the significant costs associated with processing complaints.

The first step in initiating the EEO complaint process is for the aggrieved person to contact an EEO Counselor. In accordance with 29 CFR 1614, contact with an EEO counselor must be made within 45 days of the alleged act of discrimination or harassment or the effective date of a personnel action. During the initial interview the counselor will let the employee know that they have the option of mediation or counseling as appropriate. The mediation process is voluntary for both parties.

In FAA Headquarters, this program uses a cadre of internal collateral duty mediators, as well as mediators from the National Capital Area Federal Shared Neutrals Program (administered by the Department of Health and Human Services (HHS))

In many FAA regions or centers, the Office of Civil Rights has full-time ADR Program Managers. In most cases they also use a cadre of internal collateral duty mediators, as well as Federal Executive Board Shared Neutrals program mediators. EEO Mediation programs are available in all regions/centers, however. In regions/centers that do not have full time ADR Program Managers, the day-to-day responsibilities are generally carried out by collateral duty coordinators, who work with the full-time ADR Program managers in a nearby regional civil rights office.

The FAA's Northwest Mountain Region received the Office of Personnel Management (OPM) Director's Award for Outstanding ADR Programs for its innovative EEO Mediation Program (2001).

ONEDOT Sharing Neutrals Program

As an alternative method of resolving EEO disputes, the Department of Transportation has elected to offer mediation during any stage of the EEO complaint process, when ADR has been determined to be appropriate for resolving the complaint. The efficient and effective use of mediation helps resolve discrimination disputes at an early stage, in an expeditious, cost-effective, and a mutually acceptable manner.

All modal administrations may make use of this program, but the case must be referred by the modal administration's civil rights office. Like the FAA EEO Mediation Program, it uses a cadre of collateral duty mediators and some outside shared neutrals. At the present time, a private firm is also providing some contractual services in the areas of training, evaluation, and mediation services.

Representatives of the FAA's Office of Civil Rights (ACR) and of the FAA's Alternative Dispute Resolution Staff (AGC-20) have served as members of the ONEDOT Sharing Neutrals Steering Committee.

Alternative Dispute Resolution (Workplace – Non-EEO)

FAA Air Traffic Organization (ATO) Mediation Program

The ATO mediation program is a through which one may seek answers to questions involving work related activities and programs, and resolve issues that have the potential to escalate to more serious complaints and inhibit positive performance. It is a program intended to facilitate communication and understanding between people involved in workplace disputes. Most importantly, it is designed to resolve disputes through the services of a neutral, objective mediator.

While the ATO mediation program may serve as an alternative to the formal administrative processes such as the administrative grievance procedures and the Equal Employment Opportunity (EEO) complaint process, it does not replace them. The time requirements of the administrative grievance, or other agency procedures, will not be extended as a result of the ATO mediation program. 29 Code of Federal Regulations 1614.105, Agency Processing, list the timeframes associated with the pre-complaint processing for EEO issues. An aggrieved employee must seek counseling within 45 days of the discriminatory act. Participating in the ATO mediation program does not extend the 45 days.

The ATO mediation Program Manager says that they have over a 90% success rate, having processed over 75 cases as of 2004.

The ATO mediation program is available only to employees who work in the ATO. The mediation program was established in 1998 for employees in the Office of Research and Acquisitions ARA to resolve a broad range of workplace disputes. *It was expanded in January 2005 to cover all non-bargaining unit ATO headquarters employees, as well as AFSCME bargaining unit headquarters employees, within the ATO.* If an ATO headquarters employee brings a matter to the ATO mediation program, it will be mediated by one of the collateral duty mediators within the ATO organization.

The ATO mediation program is also available to non-bargaining unit employees at the FAA's Technical Center in Atlantic City, NJ. Employees represented by a labor organization at the Technical Center may not use the ATO mediation program to resolve disputes; rather they must use the applicable negotiated dispute resolution process or other processes available to them.

FAA Technical Center ADR Memoranda of Understanding (MOU)

The FAA Technical Center has specific EEO ADR MOUs with all five of their bargaining units. The Technical Center's Labor Relations and Civil Rights offices have been significantly involved in these bargaining unit ADR programs. The FAA's Alternative Dispute Resolution Office has provided some of the ongoing training.

The initial training was provided in conjunction with Stockton College of New Jersey.

Center for Early Dispute Resolution (CEDR)

The FAA's Center for Early Dispute Resolution began operational on September 26, 2005. The Center is a pilot program that will provide services to Headquarters only. Its performance will be measured through customer surveys and other methods, and evaluated at the end of eighteen (18) months. At that time, extension of the Center's services beyond Headquarters will be considered.

The FAA Administrator created the Center in recognition of the need for early assistance in resolving workplace conflict before engaging in other processes. Most existing FAA processes are limited in scope to specific issues or segments of the workforce.

The creation of the Center was based on recommendations from an executive team composed of the Assistant Administrator for Civil Rights, the Deputy Chief Counsel, both Deputy Assistant Administrators for Human Resources, the Director of the Accountability Board, and the Associate Chief Counsel for ADR.

The Center will provide all non-bargaining unit members of the Headquarters FAA workforce a neutral, independent and confidential place to go for early help in resolving a wide range of workplace conflict. This can include conflicts among peers as well as concerns employees raise regarding management decisions. Negotiations are underway to include certain bargaining unit members in the pilot program as well.

The Center will provide information on workplace conflict management and avenues that are available for conflict resolution within the FAA. The Center will also provide conflict assessment, consultation, coaching and advice to individuals who seek assistance in handling workplace conflicts; and may employ ADR techniques to resolve workplace conflicts.

The Center will collaborate with the FAA's Dispute Resolution Specialist (DDRS) in identifying and addressing training and education needs, and in monitoring FAA conflict management developments and trends through corporate metrics and conflict audits.

The Center does not replace existing conflict management processes within the FAA.

Alternative Dispute Resolution (Procurement)

Office of Dispute Resolution for Acquisition (ODRA)

The Office of Dispute Resolution for Acquisition (ODRA) was formed in 1996 as an independent office within the FAA's Office of the Chief Counsel (AGC). In December 1997, a permanent office was established for the ODRA in Washington, D.C., pursuant to Section 224 of Public Law No. 108-176, the "Vision 100 - Century of Aviation Reauthorization Act," a series of delegations from the FAA Administrator, and the ODRA's Procedural Regulations.

The ODRA is charged with responsibility for resolving and adjudicating all protests and contract disputes arising out of procurements and contracts entered into under the FAA's Acquisition Management System (AMS).

The ODRA also has been delegated responsibility for resolving and adjudicating contests involving Agency actions associated with the FAA's adaptation of Office of Management and Budget ("OMB") Circular A-76, which pertains to competitive sourcing of "commercial activities" -- activities deemed not "inherently governmental" under the FAIR Act, 31 U.S.C. §501. In addition, pursuant to a Delegation from the U.S. Department of Homeland Security, Transportation Security Administration ("TSA"), the ODRA resolves and adjudicates designated protests and contract disputes for the TSA.

The ODRA dispute resolution process recognizes that it is in the interest of the FAA and the protester or contractor to work together to resolve acquisition related controversies in a prompt, amicable fashion, utilizing consensual alternative dispute resolution (ADR) techniques. The ODRA is staffed with a Director and two Dispute Resolution Officers, and was the recipient of a 2002 Office of Federal Procurement Policy (OFPP) Award for Outstanding Procurement ADR Programs.